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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/022,716	12/18/2001	Ann Kerstin Birgitta Kjellqvist	ACO2844 US	2119

7590

01/31/2005

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EXAMINER

FLETCHER III, WILLIAM P

ART UNIT	PAPER NUMBER
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1762

DATE MAILED: 01/31/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/022,716

Applicant(s)

KJELLQVIST ET AL.

Examiner

William P. Fletcher III

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 January 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. Applicant's amendment and response filed 5 January 2005 is acknowledged. Claims 1-6 remain pending.

Response to Arguments

2. Applicant's arguments filed in the above-mentioned response, with respect to the rejections under 35 U.S.C. § 112, 2nd Paragraph, have been fully considered and are persuasive. Applicant's deletion of the term 'smooth' and clarification of the phrase 'not substantially compressed' are noted with appreciation and these rejections have been withdrawn.

3. Applicant's arguments filed in the above-mentioned response, with respect to the rejections under 35 U.S.C. § 103(a), have been fully considered but they are not persuasive.

Applicant's distinction between a 'process for making' and a 'process for coating' is noted. Applicant is correct in characterizing Hsu as disclosing a process for making a reconstituted wood substrate, but this process *includes* the steps of coating a reconstituted wood substrate with a press-coating composition and applying heat and pressure to cure the coating. Applicant's attention is drawn to Example 6 (9:10-10:5), where these steps are detailed.

If the examiner understands applicant's position correctly, the only outstanding question concerns the definition of a 'reconstituted wood substrate' (RWS). Hsu applies the coating to the substrate *before* it is consolidated by pressing. Applicant's arguments seem to imply that, because Hsu's substrate is not consolidated before application and curing of the coating, it may not properly be considered RWS. The examiner disagrees. From applicant's disclosure, it is clear that RWS include substrates containing 'wood particles, fibers, flakes or chips'

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(specification, page 1). Pressing as a part of manufacture is disclosed as 'normal' or 'typical.' In other words, it is the examiner's position that applicant's disclosure of what constitutes RWS within the context of the invention does not explicitly require that the substrate be previously consolidated by pressing. Further, there is no evidence of record indicating that RWS *must* be previously consolidated. As such, the substrates disclosed by Hsu qualify as RWS and the press-coating and press-curing thereof meet applicant's claimed limitations.

Consequently, applicant's arguments are not persuasive.

Claim Rejections - 35 USC § 103

4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

5. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. **Claims 1-3 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hsu et al. (US 6,120,717 A) in view of Chen et al. (US 6,165,308 A).**

Hsu teaches a process for the coating of a reconstituted wood substrate (RWS) comprising the steps of:

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a) applying a press coating as an aqueous colloidal dispersion to the substrate (abstract and 3:40-5:15); and

b) applying heat and pressure to the coated substrate to cure the press coating (Example 6).

Because Hsu does not explicitly state or otherwise infer that the substrate is compressed during the process, it is the examiner's position that the substrate is "not substantially compressed," absent evidence to the contrary. Further, because Hsu does not explicitly state or otherwise infer specific measures to improve the smoothness of the coating, it is the examiner's position that the coating is "smooth," absent evidence to the contrary.

Hsu does not teach the further steps of:

c) applying a top coat to the substrate after the curing of the press coating; and

d) curing said top coat.

Chen teaches that it is conventional, in the manufacture of finished RWS, to apply a cured finish (top) coating 1:51-2:15). Consequently, it would have been obvious to one of ordinary skill in the art to modify the process of Hsu so as to further treat the press-coated RWS by conventionally applying a cured top coating. One of ordinary skill in the art would have been motivated to do so by the desire and expectation of successfully producing a finished RWS for further processing, sale, and/or use.

With respect to claim 2, Chen further teaches that it is conventional to apply and cure a primer coating before application of the finish coating (2:1-15). Consequently, it would have been further obvious to one of ordinary skill in the art to modify the process of Hsu in view of Chen so as to apply and cure a primer coating before application of the finish coating. One of

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ordinary skill in the art would have been motivated to do so by the desire and expectation of successfully producing a primed, press-coated substrate, ready to receive a finish coating — as well as producing a finished RWS for further processing, sale, and/or use.

With respect to claim 3, Chen further teaches that all of applicant's claimed steps are conventionally carried out in a single production line (2:1-15). Consequently, it would have been further obvious to one of ordinary skill in the art to modify the process of Hsu and Chen so as to carry out all of the process step in a single production line. One of ordinary skill in the art would have been motivated to do so by the desire and expectation of centralized production as well as the suggestion that doing so is conventional.

With respect to claim 6, Hsu teaches that the press coating comprises particles of a polymer of an ethylenically unsaturated monomer (4:14-15) and filler/pigment (5:5-10). Hsu does not explicitly state that the amount of filler is 40-60 wt.% based on the total weight of the emulsion solids. It is the examiner's position that the amount of filler in a coating composition is a result-effective variable effecting coating properties such as flowability and viscosity. Further, it is the examiner's position that the amount of pigment in a coating composition is a result-effective variable effecting the degree of pigmentation and hiding power thereof. Consequently, absent evidence of unexpected results demonstrating the criticality of the claimed amount of filler/pigment, it would have been obvious to one of ordinary skill in the art to further modify the process of Hsu in view of Chen so as to as to optimize such result-effective variables by routine experimentation (MPEP 2144.05).

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7. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hsu et al. (US 6,120,717 A) in view of Chen et al. (US 6,165,308 A), as applied to claim 1 above, and further in view of Cooley (US 4,587,141 A).

The combined teaching of Hsu and Chen is detailed above. Neither of these references teach that the top coat is a radiation-curable top coat, cured by UV radiation.

Cooley teaches a RWS, previously press-coated, in which the press-coating receives a protective top coat of a UV-curable resin that is subsequently UV cured (5:33-46).

It would have been obvious to one of ordinary skill in the art to modify the method of Hsu in view of Chen so as to apply, as the top coat, a UV-curable protective resin, as suggested by Cooley. One of ordinary skill in the art would have been motivated to do so by the desire and expectation of protecting the underlying substrate, as suggested by Cooley.

8. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hsu et al. (US 6,120,717 A) in view of Chen et al. (US 6,165,308 A), as applied to claim 1 above, and further in view of Steele (US 4,200,673 A).

The combined teaching of Hsu and Chen is detailed above. Neither of these references teach that the press-coated RWS is printed before application of a top coat.

Steele teaches that it is conventional to print a RWS in order to impart a desired pattern thereto (1:5-15).

It would have been obvious to one of ordinary skill in the art to modify the method of Hsu in view of Chen so as to print the RWS in order to impart a desired pattern, such as a wood grain. It would have been further obvious to one of ordinary skill to apply this printing beneath the top coating, thereby protecting the coating.

Conclusion

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William P. Fletcher III whose telephone number is (571) 272-1419. The examiner can normally be reached on Monday through Friday, 9 AM to 5 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Shrive P. Beck can be reached on (571) 272-1415. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

WPF 1/25/2005

William P. Fletcher III
Examiner
Art Unit 1762



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